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App. F. IX-4

Previous References.

1947-8 / S.D / A.

File No. 224-47

Serial Nos. 1, 2, 3, 4

Later References.

Law - 63 S 1

Fin 6-52 - (1-16)

GENERAL AND REVENUE SECRETARIAT

Serial Nos. (Fin) 1, 2, 3, 4.

116

Part B for September 1948.

SUBJECT

Recovery of Shortages as arrears of Land Revenue on the findings of Audit of accounts.

Vide - 167
Correspondence - 169 } pages

To,

The Director of Food Supplies in Mysore, Bangalore.

No. S.D. 2196/A 224-47-4 dated 15-9-1948

Stating that in absence of Security Bonds specifically providing for such amounts being made recoverable as arrears of Land Revenue, Section 193 of L.R. Code is not applicable and instructing him to take necessary action to recover the amounts

15/1947

Re:- Recovery of Shortages on the findings of Audit of Depots as arrears of Revenue.

65/3/

Letter No E3-151 C 6750/47-8 dated 28th April'48 from the D.J.S. Requests Sanction of Govt to recover the sums of money due from Depot Managers and others as arrears of Land Revenue.

1) It is reported by the D.J.S. that large sums of money are due from Depot Managers and others, and that recovery of the monies due, after allowing the admissible shortages could at present, as things stand be enforced by having recourse to a civil Court. To avoid the long and tardy process of civil law in the Civil Courts, the D.J.S. requests Sanction of Govt to recover the sums of money due, by resorting to the Procedure adopted in the Collection of Land Revenue dues. Viz. (1) by attachment & sale of movables (2) of immovables (3) bringing the lands for sale Etc.

2) The validity of or otherwise

Re:- Recovery of shortages on the findings of Audit of Depots as arrears of Land Revenue

6539.

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of adopting such a procedure, in respect of Govt dues, by the employees of the Food Dept requires examination.

3) Under Food grains Control order 1942, the provision has been made for recovery of such sums as are to be considered as Govt dues. R

4) In most of the cases, the Depot Managers, Sale Clerks etc happen to be only temporary, and are not governed by any Dept law.

5) While making such appts it is usual to take a securing bond, or some other undertaking by the individuals concerned, to safeguard Govt money.

6) In all the securing bonds, a Dept provision will have been made, in respect of payment of Govt money by the employee in case.

7) Before passing a this file to the Law Branch for legal opinion in the matter of ~~another~~ empowering the D.F.S. to collect arrears

Re:- Recovery of Shortages as arrears of Land Revenue.

6539.

due from the Officials of the Food Dept. as arrears of Land Revenue, the D.S. is of opinion that if applns be requested, to send the form of security bond or any other undertaking obtained by him, prior to making such applns. for orders.

DS
4/5

8) Dft letter to D.F.S. I am highly doubtful if such security bonds have been ever executed in the majority of cases

Dft
5/5

9) Draft letter to D.F.S. is put up for approval.

RDS
7/5

10) Issue

Dft
10/5

The D.F.S Mysore

S.D. 9320 : dt 12.5.48.

Inquired whether the depot managers have executed any security bond.

Sub A
316
RDS

4

Re:— Recovery of Shortages - as arrears of Land Revenue

529

Letter no E3 151 C 6750/47-48 dated 31st Jany 48 from the D.F.S. Intimates that Security bonds have not been taken, and that only Cash Security Deposit ranging from Rs 50/- to Rs 500/- has in some cases been obtained from the Officials concerned.

11) It is reported by the Director of Food Supplies that no security bonds have been executed by the officials prior to their seeking employment in the Food Department. It is stated that a security deposit ranging from Rs.50/- to Rs.500/- has been taken in some cases, at the discretion of the Officers concerned.

12) The Director of Food Supplies ~~contends~~ states that Audit Reports reveal heavy shortages, and the security deposits furnished and the salaries due to the officials in most cases do not cover the entire amount to be made good by them. In order to safeguard Government interest, the Director has solicited sanction for empowering him to recover such shortages as arrears of Land Revenue.

13) In this connection, it may be stated, that no specific provision for recovery of such sums has been made in the Foodgrains Acquisition Order which has also since been repealed.

14) Section 193 of the Mysore Land Revenue Code is for perusal. It reads as follows:-

"All sums due on account of the land revenue, all quit-rents, and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines, costs and interest payable or leviable under this Act or under any Act, rule or order hereby repealed, or under any Act or Regulation for the time being in force relating to land revenue and all moneys falling due to Government

under any grant, lease, security bond, or contract which provides that they shall be recoverable as a revenue demand or arrear of land revenue;

and all moneys due by any contractor for the farm of customs duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties, to which any such contractor renders himself liable under the terms of his agreement;

and all sums due from a tenant in an alienated village as contribution, in respect of any irrigation work, under a contract which provides that they shall be recoverable as arrears of land revenue;

and also all sums declared by this Act or by any other law at the time being in force to be leviable as assessment, or as a revenue demand or as an arrear of land revenue;

shall be levied under the foregoing provisions of this chapter.

And in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payment which he may have made to the contractor in anticipation."

15) In the above Section it has been clearly defined as to what ~~constitutes an~~ 'arrears of Land Revenue'. It therefore follows that only cases coming within the purview of the section cited above ~~should~~ could be enforced and arrears recovered as arrears of land revenue.

16) In the absence of any specific provision in the Foodgrains Acquisition Order which has since been repealed an application of the provisions of the Land Revenue Code in the matter of recovery of shortages may not be applicable to the cases referred to by the Director.

17) If approved, the Law Secretariat will be consulted in the matter.

18) for favour of opinion (Law Sec.)

19) The Government cannot by an executive order confer powers for the realisation of land revenue which

6 Recovery of Lostyn. 1300/Cons
569/8D

are not contemplated in the Land Revenue Code. The duty contemplated under the Land Revenue Orders (which should be repealed) do not fall under the provision of S. 193 of the L. R. Code and cannot be a mere, unless apart provision is specifically made in the contract under chief.

NMM.
27/8/40

20) fr 27/8

Lane Levy)

27 AUG 1940

21) In the absence of words specifically providing for any such amount as arrears of Land Revenue S 193 of L R Code does not apply unless the matter stand apart from the terms of the contract by which the civil rights are always governed

Ford Secy)
MC)

22) BK
9/9
fr 9/9

9/9

9/9

Yes

Sg. approved, draft letter to D.F.S. will issue.

Dsne
14/9/40.

DFS 10/9 Sun 13/9

Re recovery of shortages as arrears of land Revenue

529

To

The D. F.S. in Tyabji

S. R. 2196/A2246 dt. 15. 9. 48

Stating that in the absence of security bonds specifically providing for such amounts being made recoverable as arrears of Land Revenue, Section 143 of L.R. Code is not applicable and requesting him to take necessary action to recover the amounts

A 224-47-1

GOVERNMENT OF MYSORE

Tele {phone: 2231
grams; Foodsup.

OFFICE OF THE
DIRECTOR OF FOOD SUPPLIES
IN MYSORE,

No. E3-151-C.6750/47-48.
ENCLS.

Bangalore, dated 28th April *1948.*

FROM SECRETARY. FOOD & CIVIL SUPPLIES

The Addl. *Director of Food Supplies*
in Mysore, Bangalore.

1 MAY 1948

The Secretary
to the Government of Mysore,
Food Supplies Department, BANGALORE.

SIR,

Subj:-Recovery of shortages on the findings of Audit of Depots-as arrears of Revenue.

How about the legal position?

I have the honour to enclose herewith a copy of letter No.R1-370/47-48, dated 14th April 1948, from the Rationing Officer, Mysore City, and to state that many of the Government Grains Depots and Godowns in the State disclose considerable shortages at the time of audit. Even after allowing admissible shortages as per rules, large sums of inadmissible shortages are coming to notice and the Depot Manager is responsible for these shortages an account of his negligence or otherwise. These shortages cannot easily be recovered from the concerned persons, unless there is a statutory provision for recovering the same.

2. I am of opinion that these sums of money come under the category of public moneys and proper proceedings have to be taken for their recovery. I therefore request you kindly obtain sanction of Government to recover the shortages disclosed in audit as an arrear of land Revenue.

3. Since shortages disclosed under audit from the inception of the food grains control order 1942, are pending recovery, I request you kindly obtain orders of Government to recover these sums of money as arrears of land revenue from the time of introduction of food grains control order 1942.

pto.

Control Order 1942.

I have the honour to be,
Sir,
Your most obedient servant,

Addl.Director of Food Supplies.

NS/-.

Letter No.R1-370/47-8, dated 14th April 1948, from the Rationing Officer, Mysore City, to the Director of Food Supplies Bangalore.

I have the honour to state that under the Law, the means for the recovery of the amounts due by the employees of the Government grains depots towards the value of shortages in the foodgrains and other articles entrusted into their custody is by filing a suit in a court of law and obtaining a decree. This procedure not only involves much loss of time but also initial cost. With a view to effect recovery of the dues by some easy means without resorting to a court of law, it is suggested in the interests of Government that the means employed for the recovery of the land revenue dues may be adopted in the case of the recovery of the dues from the employees of Government depots also.

I request that you may be so good as to move the Government to kindly accord sanction for the recovery of the dues from the employees of Government depots in the same way as an arrear of land revenue if there is already no such provision at present.

" C O P Y "

3

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 3D. [illegible] / A 224-47-2 General and Revenue Secretariat,

Dated, Bangalore 12th May, ... 1948.

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.
Food & Civil Supplies Dept.

To

The Director of Food Supplies in Mysore,
Bangalore.

SIR,

Subject:- Recovery of shortages on the findings of Audit of Depots - as arrears of Land Revenue.

With reference to your letter No.E3-151/C.6750/47-48, dated, 28th April, 1948, on the above subject, I am directed to enquire whether the Depot Managers of Government Grains Depots and Godowns have executed any security bonds at the time of their appointments and, if so, a copy of the bond may be kindly sent for reference.

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Food & Civil Supplies Dept.

KRG.2.

12/5

Appendix F G—1] No. 4

SUBJECT Recovery of Shortages on the findings of Audit of depots as arrears of Land Revenue

Recd. on 11.5.48
TYPED 12.5.48

Diary No. of letter replied to

Section A
File No. 226-47
Serial No. 2 D.12.5.48

No. S.D.9370

General and Revenue Secretariat

( )

the 19 .

To The D.F.S.

Date of issue

Sir,

With reference to your letter no. E 3-151-C 6750/47-48 dated 28th April 48, on the above subject, I am directed ~~to request you to be so~~ good as to send the form of security bond or any other undertaking obtained from the individuals concerned, to safeguard Govt money.

Signed by

to enquire whether the Depot managers of Govt Grains Depots and Godowns have executed any security bonds at the time of their appointments and if so, a copy of the bond Kindly ~~Below~~ may be sent for reference.

List of enclosures

Copied by

Examined by

Yours etc
for Secy to Govt
F.C.S. Dept

RAS

WD 06865—GPB—8,000—9-8-47

Thanks

A 224-47-3

GOVERNMENT OF MYSORE

Tele { phone: 2231
grams: Foodsup.

OFFICE OF THE
DIRECTOR OF FOOD SUPPLIES
IN MYSORE,

No. E3.151-C.6750/47-48:
ENCLS.

4 AUG 1948

569

Bangalore, dated ....31st.....July..... *1948*.

From

Sri K.Guru Dutt, B.A.,
Director of Food Supplies in Mysore,
Bangalore.

Sri S.Darashah, B.A.,
Secretary to Government,
Food & Civil Supplies Department,
Bangalore.

Sir,

Subject: Recovery of shortages on the findings of audit of depots as arrears of land Revenue.

With reference to your letter No.S.D.9350 dated the 12th May 1948 on the above subject enquiring whether the depot managers of Government grains Depots and godowns have executed any security bonds at the time of their appointments etc., I have the honor to state that the required information called for from the Deputy Commissioners and the Rationing Officers has been received only from the Deputy Commissioners of Kolar, Chikmagalur, Tumkur and Mysore Districts and replies from the other officers are awaited.

From the replies so far received it is seen that the depot managers have furnished security deposits which have been pledged in favour of the respective officers -- (the Rationing Officers or the Deputy Commissioners as the case may be) but that no security bonds have been executed. The quantum of security deposit taken ranges from Rs.50/- to Rs.500/- at the discretion of the officers concerned.

Most of the audit reports however reveal very heavy shortages. These shortages are now being recovered, whereever possible by adjusting the security deposits furnished and salaries due to the concerned depot staff, when any amount is available. The Deputy Commissioners and Rationing Officers have reported that the amounts due from the

the depot staff are very heavy and that the present procedure of adjusting the security deposits does not in most cases cover the entire amount due. They therefore suggest that the recovery of sums due from the officials may be ~~recovered~~ as an arrear of Land Revenue. I agree with them and recommend that in the interest of recovery of shortages or other dues recoverable by the staff of the Food Department, the same may be ordered to be recovered as an arrear of Land Revenue. I request you kindly to obtain sanction of Government for the same, at a very early date to enable suitable action being taken regarding the several pending cases where heavy amounts are involved.

I have the honor to be,
Sir,
Your most obedient servant,

Director of Food Supplies.

AMD. 1.
31.7.48.

Appendix F. G.—1]

SUBJECT..... Recovery of Shortages as arrears of Land Revenue.....

TYPED 15.9.48

Diary No. of letter replied to.....

Section A—
File No. 224-47
Serial No. 41.15.9.48

No. 820 2194

General and Revenue Secretariat

( )

the *194* .

To The D. F. S.

Date of issue.....

Signed by.....

Sir,

~~With reference~~ Adverting to your letter no. E 3 - 151 / C 6570/47. 48 dated 31. 7. 48, requesting special sanction to recover the sums of money due from Depot Managers and other Depot staff as arrears of Land Revenue, I am directed ~~to observe that the~~ to state that in the absence of the security bonds specifically providing for any such amounts being made recoverable as arrears of Land Revenue, Sec. 193 of the LR Code is not applicable.

List of enclosures.....

Codied by.....

Examined by.....

contemplated under the Food grains control order 42 (which repealed do not fall under the provisions of Section

193 of the L. R. Code. and can not be of avail, unless separate provision is specifically made in the control order itself. In the circumstances, your proposal is not acceptable to Govt.

I am to add that civil remedies are always available and necessary action should be taken against the officials responsible for the shortages, to enable prompt recovery of amounts.

Yours faithfully.

14/9/48.

for Secy to Govt.

Rev (Ex) & Agri. Deptt.

Dy 13/9

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. SD. 2194

General and Revenue Secretariat,

Dated Bangalore,...15th..Saptr.,.*1948*.

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore.
Food & Civil Supplies Dept.

To

The Director of Food Supplies in Mysore,
Bangalore.

SIR,

Subject:- Recovery of shortages as arrears of Land Revenue.

Adverting to your letter No.E3-151/C.6570/47-48 dated 31-7-1948, requesting special sanction to recover the sums of money due from Depot Managers and other Depot Staff as arrears of Land Revenue, I am directed to state that in the absence of the security bonds specifically providing for any such amounts being made recoverable as arrears of land revenue, Section 193 of the Land Revenue Code is not applicable.

2. I am to add that civil remedies are always available and necessary action should be taken against the officials responsible for the shortages, to enable prompt recovery of amounts.

Yours faithfully,

87C

For Secretary to Government,
Food & Civil Supplies Dept.

15/9

KRG.2.